FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

First Appeal NO. 253 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATE : 27th April, 2007.

Heard Shri Agrawal, learned Assistant Government Pleader.

This First Appeal is preferred against the judgment passed by the reference Court on 30.01.2001.

Brief facts giving rise to the First Appeal are stated as under :

The land belonging to the respondent was acquired by the State of Maharashtra for the purpose of construction of Rajur Irrigation Project. The Section 4 notification was issued on 04.09.1988 and the award was passed on 06.10.1988. The land acquisition officer granted compensation @ Rs.7,500/- per Hectare. Since the compensation awarded by the land acquisition officer was inadequate, the respondent preferred a reference application before the Collector, Yavatmal. The case was registered as Land

Acquisition Case No.49 of 1992. This land acquisition case was considered along with the other land acquisition cases which arose out of the same Section 4 notification by the reference Court and a common judgment was passed on 30.01.2001. The reference Court granted compensation @ Rs.15,000/- per Hectare. The judgment of the reference Court is challenged in this First Appeal.

Shri Agrawal, the learned Assistant Government Pleader appearing on behalf of the State, submitted that the reference Court was not justified in enhancing the compensation and granting it @ Rs. 15,000/- per Hectare when the land acquisition officer, after considering the material on record had granted compensation @ Rs.7,500/- per Hectare. According to the learned Assistant Government Pleader, there was no material before the reference Court to come to a conclusion that the market value of the land was Rs. 15,000/- per Hectare.

On considering the submissions made on behalf of the appellant, the following points arise for my determination in this First Appeal.

1. Whether the reference Court was justified in granting compensation @ Rs. 15,000/- per Hectare ?

2. Whether the compensation granted by the reference Court is just and proper ?

I have perused the record as also the judgment passed by the reference Court. It appears from the record that the respondent had examined himself and also examined some other witnesses to substantiate his claim. The claimants, who were the adjoining land owners and whose lands had also been acquired by the same Section 4 notification, deposed to point out that the market value of the land was Rs.20,000/- per Hectare at the time of issuance of Section 4 notification. The respondent had produced the 7/12 extract on record and had also proved that he was taking crops like Jowar, Cotton, Udeed, Mung, etc. from the acquired lands. The Court then considered the extract of sale index as also certain other sale-deeds which showed that the market value of the land at the relevant time was ranging from Rs.15,000/- per Hectare to Rs.20,000/- per Hectare. The Court considered various sale instances produced by the respondent on record and also applied the law laid down in the various reported decisions of the Apex Court and this Court to hold that the market value of the acquired land was at least Rs.15,000/- per Hectare. The reference Court further considered the

evidence of the vendees of the lands which had been sold at the relevant time. The reference Court held that Exh.47, which was the certified copy of the sale index register was an admissible piece of evidence because the claimants had examined the vendee of the said transaction namely Shri Shridhar Kute. After considering and appreciating the entire material produced by the respondent on record, the reference Court recorded a categorical finding that the market value of the land was Rs.15,000/- per Hectare and the compensation granted by the land acquisition officer was meagre. The approach of the reference Court in determining the compensation was extremely reasonable and the principles laid down under Section 23 of the Land Acquisition Act were applied by the reference Court while passing the impugned judgment.

Hence, no fault can be found in the impugned judgment. In the result, the First Appeal fails and dismissed with no order as to costs.

JUDGE

APTE